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Attorneys for Defendants Whiteside Construction Corporation,  
NMS Supply, Inc., J.W. Construction, Inc., and  
David R. Whiteside

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

WALTER PEREZ ESCOBAR, MARGARITO  
GONZALEZ, and FRANCISCO CISNEROS-  
ZAVALA, individually and on behalf of all others  
similarly situated

Plaintiff,

v.

WHITESIDE CONSTRUCTION CORPORATION,  
NMS SUPPLY, INC., J.W. CONSTRUCTION,  
INC., and DAVID R. WHITESIDE

Defendants.

) Case No. CV 08 1120 WHA  
)  
) **DECLARATION OF DAVID**  
) **CASTILLO IN OPPOSITION TO**  
) **PLAINTIFFS' MOTION FOR**  
) **CERTIFICATION OF FAIR LABOR**  
) **STANDARDS ACT COLLECTIVE**  
) **ACTION AND APPROVAL OF**  
) **NOTICE**  
)

) Date: August 21, 2008  
) Time 8:00 a.m.  
) Courtroom: 9  
) Judge: Hon. William Alsup  
)  
)

1 I, David Castillo, declare:

2 1. I have personal knowledge of the facts set forth herein, and if called as a witness, I  
3 could and would competently testify thereto. I understand and read English.

4 2. I make this declaration voluntarily, and I have not been pressured by anyone to  
5 provide this declaration. Further, I have not received any payment or promise of future  
6 consideration for this declaration.

7 3. I have been employed by Whiteside Construction Corporation since November,  
8 2006. Initially, I was employed by Whiteside Construction as a union cement mason, and my pay  
9 rate was determined by the Company's union contract with the Cement Masons union. In  
10 February, 2008, I became a union carpenter. Since then, my pay rate has been determined by the  
11 Company's union contract with the Carpenters' Union.

12 4. For approximately the last four months, I have driven my own car from my home  
13 directly to the job site in the morning. Before that, I drove to work with my dad, who is employed  
14 by Whiteside Construction as a foreman. Since the beginning of my employment, I have been  
15 aware that I and other employees have the option either to go directly to the job site at the  
16 beginning of the day or to go to the yard in Richmond and obtain a ride to the jobsite from there. I  
17 am not required to report to the yard before going to the jobsite.

18 5. During the time when I rode to work with my dad, sometimes he would drive to the  
19 yard in Richmond before going to the job site. Occasionally, during the stops at the yard, I would  
20 help my dad load equipment onto his truck. Each time I helped my dad load the truck, it only took  
21 a few minutes. Neither my dad nor anyone else at Whiteside Construction directed or ordered me  
22 to help him load equipment onto his truck. I helped him because he is my dad, and I do not want  
23 him to work any harder than he has to.

24 6. Each afternoon, I get my assignment for the next day from the foreman working at  
25 my location. The foreman tells me where I will be working and what time to begin work at the job

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1 site. I know that, if necessary, I can call the Company's office to learn the location and time of  
2 my assignment for the next day. However, I have never had to call the Company's office to do  
3 so.

4 I declare under penalty of perjury under the laws of the State of California and of the United States  
5 that the foregoing is true and correct.

6 Executed this 31st day of July, 2008, at San Francisco, California.

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9 \_\_\_\_\_  
David Castillo

10  
11 7-31-2008

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13 San Francisco, CA  
14 My 15<sup>age</sup> 21 yrs.  
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